

## **REMARKS**

### ***Claim Amendments***

Claims 1-13 are pending. New claims 12 and 13 are presented for examination. Support for these new amendments can be found throughout the specification and the claims as originally filed, for example, at Example 7. Applicants respectfully requests entry of the above amendments to the claims and submit that the above amendments do not constitute new matter. Applicants further submit that newly presented claims 12 and 13 are within elected Group II.

### ***Response to Restriction Requirement***

The Restriction Requirement required restriction to one of Groups I, II, and III all of which purportedly do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature.

Applicants hereby provisionally elect **Group II** (claims 2, 3 (in part), and 4-7 including new claims 12 and 13), drawn to, according to the Restriction Requirement, “a DNA and a cell containing it” **with traverse**. Restriction Requirement at page 2. Applicants reserve the right to file divisional application(s) directed to non-elected subject matter.

Applicants respectfully request reconsideration of the restriction requirement in view of the following remarks.

According to PCT Rule 13.2, unity of invention exists between groups of inventions when there is a technical relationship among the claimed inventions involving one or more of the same corresponding special technical features.

The Restriction Requirement asserts that Groups I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, they lack the same or corresponding special technical features. In particular, the Restriction Requirement asserts that “proteins comprising deletions, substitutions, additions or insertions were known in the art...” The Restriction Requirement asserts that WO 2002/101075 (“the ’075 publication”) allegedly “describes a protein (SEQ ID NO: 22) which is 97% identical with the protein...in claim 1” and thus teaches the special technical feature of claim 1. Restriction Requirement at page 2.

Applicants respectfully disagree. At least one special technical feature of claim 1 is the adiponectin expression-inducing agent comprising the protein of the amino acid sequence of SEQ ID NO: 2 described in claim 1. This special technical feature is shared by all three Groups. Indeed, Group I is drawn to an adiponectin expression-inducing agent comprising the protein of the amino acid sequence of SEQ ID NO: 2 of claim 1 and method of use; Group II is drawn to a DNA encoding an adiponectin expression-inducing agent comprising the protein of the amino acid sequence of SEQ ID NO: 2 and method of use; and Group III is drawn to methods of using the adiponectin expression-inducing agent comprising the protein of the amino acid sequence of SEQ ID NO: 2 of claim 1.

The '075 publication is silent on the technical feature of claim 1. In particular, the '075 publication does not discuss an adiponectin expression inducing agent. Rather, the '075 publication discloses an undefined list of "cancer markers" and is silent on the claimed uses of an adiponectin expression inducing agent in relation to metabolic disease, heart disease, and obesity. *See* Table I. Accordingly, the '075 publication does not teach the special technical feature of claim 1.

Since the special technical feature shared by Groups I, II, and III is novel, there is no lack of unity. Rejoinder of Groups I, II, and III and examination of claims 1-13 is respectfully requested.

In light of the above, Applicants reaffirm the election **with traverse** of **Group II** (claims 2, 3 (in part), and 4-7 and new claims 12 and 13), holding claims 1 and 8-11 in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims.

**CONCLUSION**

Applicants believe that no fees are required for entry of this Response. However, in the event that any fees are deemed necessary by the U.S. Patent and Trademark Office to enter and consider this Response or to maintain the present application pending, please charge the fees to the undersigned's **Deposit Account No. 50-0206**.

Respectfully submitted,

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Dated: April 2, 2009

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